

CITY OF MILPITAS, CALIFORNIA
STANDARD PROCEDURE

SUBJECT: INCLUSION POLICY CONCERNING PEOPLE WITH DISABILITIES IN
PROGRAMS AND SERVICES OF THE PARKS AND RECREATION SERVICES
DEPARTMENT

PURPOSE

To establish procedures and guidelines for the participation of children and adults with disabilities in the programs and services offered by the City of Milpitas Parks and Recreation Services Department ("PRSD")

The Milpitas PRSD seeks to facilitate opportunities for participants with and without disabilities to engage in recreational pursuits together through inclusion services. Services are designed to assist people in developing and using their recreational time in ways that enhance their health, well-being, and independence.

The City affirms its commitment to providing meaningful access to municipal facilities, programs, activities and services by providing appropriate accommodations to qualified individuals with disabilities. This policy complies with all federal and state laws including: Title VI of the Civil Rights Act of 1964 (herein referred to as "Title VI"), as amended, and the Americans with Disabilities Act (herein referred to as "ADA") of 1990.

POLICY

The City of Milpitas Parks and Recreation Services Department ("PRSD") proposes the following inclusion policy:

The City welcomes and encourages the participation of children and adults with disabilities in all of its programs. The PRSD makes every reasonable effort to ensure that programs, activities, and services, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. Reasonable accommodations will be attempted for all programs and the City will make every effort to ensure that its services, programs and activities, when viewed in their entirety, are readily accessible to and usable by qualified individuals with disabilities.

PROCEDURE

1. To ensure appropriate accommodations are met, participants in need of reasonable accommodations must register at least two (2) weeks in advance of a class or program's start date. At that time, individuals requesting modifications or auxiliary aids/services shall provide the City with notice that they seek an accommodation for their disability. Notice allows the City to evaluate and make

all reasonable accommodations in the event of logistical difficulties in obtaining certain services for individuals who can meet essential eligibility requirements.

What does “reasonable accommodation” mean?

- a. Reasonable accommodations are program changes made to assist a person with a disability to meet essential eligibility requirements. An accommodation is “reasonable” when it does not result in a fundamental alteration in the nature of the activity. (www.usdoj.gov/crt/ada/adahom1.htm).
- b. Reasonable accommodations specifically mentioned in Title II of the ADA include but are not limited to the following:
 - **Extra staff:** providing additional employees or trained volunteers to assist the participant. The extra staff should have additional training on disability awareness, program adaptation, behavior management, and related issues; and experience with behavior management plans.
 - **Additional staff training.**
 - **Auxiliary Aids or Services:** this includes sign language interpreters, notetakers, assistive listening services, cassette versions of documents, and Braille documents.
 - **Changes to Rules and Policies:** When a rule can be changed without resulting in a fundamental alteration of the service, it must be changed for the person with a disability.
 - **Adaptive Equipment:** Many vendors make adaptive sports equipment, adaptive game pieces, adaptive card holders, special eating utensils, and adaptive musical instruments. The City shall make every effort to acquire adaptive equipment, if requested.
 - **Removal of Architectural Barriers.**
 - **Other Effective Modifications.**

Public entities do not necessarily have to make each of their existing facilities accessible. The City will make every effort to evaluate how to provide program access through any number of methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate accessible sites.

- c. The City of Milpitas PRSD will not exclude a qualified participant from a recreation program unless it cannot make a reasonable accommodation for that person’s disability. In the attempt to achieve a reasonable accommodation, PRSD staff shall take the following steps:
 - Determine whether the participant qualifies for the program.
 - Assess the participant’s skills (this should be done by staff with disability awareness training). Assess each individual on an

individual basis ensuring that accommodations will be individualized to each person.

- Identify any possible hazards or risks that may occur from participation and document solutions.
- Develop ideas for possible accommodations. This should be done through a team approach including but not limited to the parent, caregiver, or legal guardian and recreation staff.
- Create a program plan which may or may not include a behavior plan.
- Complete a task analysis, if necessary.
- Implement accommodation(s).
- Evaluate and make changes if necessary, while documenting findings.

d. **Safety/Risk Issues**

Under the ADA, an accommodation is not reasonable if it compromises the safety of staff and/or participants. Safety issues must be formally identified and recorded.

The department head in charge of PRSD must issue a memo to the participant and/or his or her legal guardian or caregiver if an accommodation is denied. The memo must include what was requested, what the agency considered or attempted, why the agency denied the request, and any alternatives that were made available instead of accommodating the request.

In the event that a participant's behavior causes an unsafe situation to arise, a behavior plan must be developed. Appropriate PRSD staff, in consultation with other City departments if necessary, will develop the plan.

e. **Undue Burden**

When an accommodation causes extreme difficulty for City staff or incurs unreasonable City expense, it need not be made. PRSD shall abide by the three legally identified categories to evaluate the determination of an undue burden:

- **Undue Administrative Burden**: When all existing and available resources are applied and an accommodation cannot be found, PRSD complied with the ADA.
- **Undue Economic Burden**: When the cost of an accommodation will result in a substantial financial burden to the City of Milpitas, a finding of economic burden is justified.¹

¹ Please note that it is not the size of the general recreation program area (i.e., yoga, dance, or swim lessons) budget that determines whether it is a financial burden. Instead, it is the size of the City's budget.

- Fundamental Alteration: When the accommodation could be made, but would fundamentally change the activity or the policy, it need not be made.
2. A participant shall request accommodations by checking the box on the registration form.
 3. PRSD staff members shall evaluate each request for accommodation and may contact the registrant and/or his or her family for additional information.
 4. PRSD staff shall determine what reasonable accommodations to implement, complete a Participant Profile, and direct copies to the program coordinator and/or manager and other appropriate staff.
 5. Although the City will give primary consideration to an individual's choice of auxiliary aid/service, the City may choose to not provide auxiliary aids if to provide such aids would result in a fundamental alteration in the nature of a service, program, or activity or in an undue financial or administrative burden. However, in such instances, the City will reasonably attempt to furnish another auxiliary aid that does not result in a fundamental alteration or undue burden.
 6. If staff is not notified that a participant who requires an accommodation is enrolled in a class the following steps shall be followed:
 - a. If a participant is deemed to be disruptive or unsafe, the program coordinator or manager will inform PRSD staff of its concerns.
 - b. Staff will then observe and assess the participant in the program, write a report, and make recommendations for accommodations, meet or speak to parents (if necessary), and direct copies to the program coordinator and/or manager in a timely manner.

Beginning with the Spring 2007 Milpitas Parks and Recreation Services Department Activity Guide, the following Access Statement will appear:

The City of Milpitas Parks and Recreation Department provides positive recreational experiences that contribute to the physical, mental, social, and emotional development of people of all ages and abilities. If you have a disability and would like to request support for a program, please contact a staff member. To facilitate opportunities for people with and without disabilities and to engage in leisure pursuits together, the Milpitas Parks and Recreation Department provides inclusion services. To ensure the requested accommodation, please notify the Parks and Recreation staff at the facility where the requested program is located at least two weeks in advance of the start of the program. For more information on inclusion opportunities, Parks, and Recreation Services, and accommodations, please contact the Parks and Recreation Department at 408.586.3210.